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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ADOLFO VARGAS LEPE,

Defendant.

Case No. CR-23-79-BLG-SPW

**DEFENDANT'S SUPPLEMENTAL
PROPOSED JURY
INSTRUCTIONS
[WORKING COPY]**

COMES NOW Defendant Adolfo Vargas Lepe, by and through his counsel of record, the Federal Defenders of Montana and Edward M. Werner, Assistant Federal Defender, hereby offers the attached Defendant's Supplemental Proposed Instruction number 1.

RESPECTFULLY SUBMITTED this 25th day of November, 2024.

/s/ Edward M. Werner
EDWARD M. WERNER
Federal Defenders of Montana
Counsel for Defendant

SUPPLEMENTAL INSTRUCTION NO. __

Kidnapping requires more than a transitory holding, and more than a simple mugging or assault because the facts must reflect the essence of the crime of kidnapping.

Four factors should be evaluated when determining whether charged conduct constitutes kidnapping:

- (1) the duration of the detention or asportation;
- (2) whether the detention or asportation occurred during the commission of a separate offense;
- (3) whether the detention or asportation which occurred is inherent in the separate offense; and
- (4) whether the asportation or detention created a significant danger to the victim independent of that posed by the separate offense.

Defendant's Proposed Supplemental Instruction 1
Commentary to 9th Cir. Crim. Jury Instr. 17.2 (9/2022)
United States v. Jackson, 24 F.4th 1308 (9th Cir. 2022)
Definition of Kidnapping

CERTIFICATE OF SERVICE
L.R. 5.2(b)

I hereby certify that on November 25, 2024, a copy of the foregoing document was served on the following persons by the following means:

<u>1, 2</u> <u>3</u> 	CM-ECF Hand Delivery Mail Overnight Delivery Service Fax E-Mail
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1. CLERK, UNITED STATES DISTRICT COURT

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3. ADOLFO VARGAS LEPE
Defendant

/s/ Edward M. Werner
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